

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

HSBC MORTGAGE SERVICES, INC.,

Plaintiff,

vs.

Civ. No. 13-508 KG/KK

MARIE A. MARTINEZ, A/K/A
MARIE MARTINEZ,
FELIX J. MARTINEZ, A/K/A
FELIX JOE MARTINEZ,
FELIX JOE MARTINEZ PUBLIC TRUST, AND
SOUTHWEST FINANCIAL SERVICES, INC.,

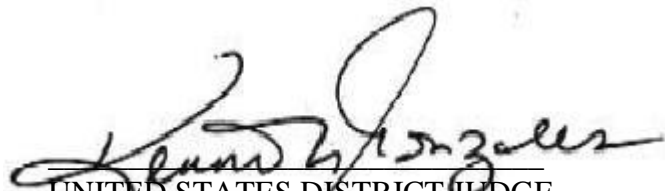
Defendants.

ORDER

This matter comes before the Court upon Counter Plaintiffs' Request for Entry of Default and Motion for Default Judgment (Motion for Default Judgment), filed July 16, 2013. (Doc. 7). On July 22, 2013, the Clerk of the Court entered a Clerk's Entry of Default against Counter Defendants. (Doc. 11). On August 9, 2013, Counter Defendants filed an Amended Motion to Set Aside Entry of Default Under Fed. R. Civ. Pro. 55(c) and for Extension of Time to Respond (Motion to Set Aside Entry of Default). (Doc. 14). In addition to seeking to set aside the Clerk's Entry of Default, Counter Defendants seek an extension of time to respond to the counterclaim. On August 22, 2013, Counter Plaintiffs filed a response to the Motion to Set Aside Entry of Default, and Counter Defendants filed a reply on September 5, 2013. (Docs. 15 and 16). Then, on December 17, 2013, Counter Plaintiffs voluntarily dismissed their counterclaim against Counter Defendants. (Doc. 29). Because Counter Plaintiffs dismissed their counterclaim against Counter Defendants, the Motion for Default Judgment is moot and the Clerk's Entry of Default should be set aside.

IT IS ORDERED that

1. the Request for Entry of Default and Motion for Default Judgment (Doc. 7) is denied as moot;
2. the Amended Motion to Set Aside Entry of Default Under Fed. R. Civ. Pro. 55(c) and for Extension of Time to Respond (Doc. 14) is granted in that the Clerk's Entry of Default (Doc. 11) is set aside; and
3. Counter Defendants' request for an extension of time to respond to the counterclaim is denied as moot.



UNITED STATES DISTRICT JUDGE